

Admission to practice

Requirements for admission

Educational requirements

Academic requirements

- The academic requirements propounded by the Rules involve completion of a tertiary academic course in Australia, including the equivalent of at least 3 years full time study of law, that is recognised in at least 1 Australian jurisdiction as a sufficient academic qualification to practice law (s 24 LPA; r 95 LPAR)

Practical legal training requirements

- The practical requirements for admission are the successful completion of at least 1 year's articles of clerkship with a lawyer, a recognised PLT course, or a combination of the two. The most common model is for the completion of a PLT course to carry admission (s 24 LPA, r 96 LPAR)

Character-based requirements

Reason for character-based requirements

- The reason for enquiry into fame and character is that a person admitted to the profession is held out as fit to be entrusted by the public with their affairs and confidences, in whose integrity the public can be confident (Ex parte Lenehan 1948, per Rich J)
 - "Integrity is the fundamental quality of a person who seeks to practice as a member of the legal profession...if personal integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed regardless of how competent the lawyer may be" (Ch 1, Canadian Professional Rules)

Responsibility for character assessment

- The court must accordingly be confident of an applicant's good fame and character, & exercises a responsibility to the public and the profession not to accredit persons as worthy of that confidence who cannot establish the right to it (Wentworth v NSW Bar Association 1992, per Deane, Dawson, Toohey & Gaudron JJ)
- Protection of the public, to this end, is "a significant feature of admission proceedings" (Jackson v LPAB 2007, per Johnson J)
- Statute makes provision for an admission board to advise the Court as to an applicant's fame and character (s 31, 35 & 36 LPA)

"Good fame and character"

- This phrase bears no special meaning; instead, the words assume their ordinary meaning (Health Care Complaints Commission v Karalasingham 2007, per Basten JA)

- The word “fame” focuses on an applicant’s reputation in the public arena, whereas “character” involves a more objective evaluation relating to an applicant’s quality, judged by his or her former acts and motives (Ex parte Tziniolis 1966 per Holmes JA; Jackson v LPAB 2006, per Johnson J)
 - This because “a person can only be judged by what he has done & what he has professed in the past, and what he claims of himself when he makes an application for admission”. (Re B 1981, per Moffitt P)
 - Particularly important is evidence going to an applicant’s honesty, given that “the demands of honesty and fair dealings are probably greater in the legal profession than in any other profession”. (Frugtniet v Board of Examiners 2005, per Gillard J)
- Australian Courts have been wary of an insinuation that the concept of “good fame and character” could serve as a de facto discriminatory tool (Re B 1981, per Moffitt P)

Admission pursuant to the mutual recognition scheme

- The Mutual Recognition (NSW) Act 1992 and the Mutual Recognition Act 1992 (Cth) is designed to “establish the legal framework for the mutual recognition by the States and Territories of each other’s differing regulatory standards regarding goods and occupations”. (Sande v Registrar, Supreme Court of Qld 1996, per Lockhart J).
- S 17 of the Act is the operative provision of the Act as it states “a person who is admitted in the first State for an occupation is, by this Act, entitled after notifying the local [admission] authority of the 2nd State for the equivalent occupation; and pending such [admission], to carry on the equivalent occupation in the 2nd State”.

Factors relevant to good fame and character

Previous criminal behaviour

- Previous criminal convictions are clearly relevant to an applicant’s fame and character (s 9, LPA)
- Not all criminality prevents admission; it depends on the nature of the crime(s), how long ago it occurred, and if the applicant has been rehabilitated in the intervening period. Some forms of criminality though are almost prima facie evidence of unfitness to practice, mostly where dishonesty was involved (Thomas v LPAB 2005, per Jersey CJ)
 - In this case, the applicant committed 9 offences over a 3 month period involving the misappropriation of his employer’s money. The court ruled that fraudulent misappropriation on that scale “suggests present unsuitability to practice in a profession in which absolute trust must be of the essence”. (Thomas v LPAB 2005, per Jersey CJ)
- A court may be more inclined to overlook a prior conviction, even for dishonest where it arose out of events occurring when the applicant was very young, and was the result of immaturity. Full disclosure and subsequent evidence of restoration of integrity are of especial value to an applicant in this context (Re Owen 2005).